

Message Text

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PAGE 01 PORT A 00072 131939Z

51

ACTION ARA-10

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FM AMEMBASSY PORT AU PRINCE

TO SECSTATE WASHDC 9086

C O N F I D E N T I A L PORT AU PRINCE 0072

E.O. 11652: GDS

TAGS: ETEL, EINV, HA

SUBJECT: NEGOTIATIONS BETWEEN GOH AND US TELE-HAITI INVESTORS

REACH STANDSTILL

REF: (A) STATE 206771; (B) PAUP 1820; (C) PAUP 1511

1. SUMMARY. NEGOTIATIONS BETWEEN THE GOH AND THE US INVESTORS IN HAITI'S SOLE TELEVISION NETWORK APPEAR TO BE AT A STANDSTILL. AT LATEST DISCUSSIONS HELD JAN. 6-10 IN PORT AU PRINCE, GOH STATEN NO COMPENSATION WILL BE GRANTED FOR LOSS OF MONOPOLY AND INDICATED NO INTEREST IN PURCHASE OF COMPANY. US SHAREHOLDERS INFORMED GOH THEY WILL BE APPROACHING DEPT. OF STATE FOR ASSISTANCE. AT MOMENT BEST CHANCE FOR RESOLVING ISSUES APPEARS LIE WITH HAITIAN SECRETARY OF FOREIGN AFFAIRS BRUTUS WHO SUGGESTED TO EMBASSY ECONOFF THAT HE AND AMBASSADOR ISHAM MIGHT BE ABLE TO DEVELOP COMPROMISE PROPOSAL IN PRIVATE DISCUSSIONS AFTER AMBASSADOR'S RETURN. END SUMMARY.

2. IN 6 MONTHS SINCE GOH TOLD INVESTORS MONOPOLY WOULD BE WITHDRAWN, NEGOTIATIONS TWICE ALMOST WERE CONCLUDED, ONLY TO MEET OBSTACLES AT LAST MOMENT. AGREEMENT WAS FIRST REACHED ON PROPOSAL THAT INVESTORS WOULD BE COMPENSATED BY PAYMENT OF \$300,000 FOR LOSS OF MONOPOLY. HOWEVER, WHEN COMPANY OFFICIALS INSISTED THAT ANY AMENDMENT TO CONTRACT MUST ENSURE PRESENT COMPANY'S ACCESS TO INTERNATIONAL TELEVISION THROUGH SATELLITE ON AN EQUAL

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PAGE 02 PORT A 00072 131939Z

BASIS WITH ANY NEW TV STATION, GOH WITHDREW PROPOSAL. LATER

EMBASSY WAS INFORMED THAT TENTATIVE AGREEMENT HAD BEEN REACHED ON HAITIAN PURCHASE OF US SHARES. HOWEVER, NO AGREEMENT WAS SIGNED AND SHAREHOLDERS WERE INFORMED ON DECEMBER 17 THAT GOH HAD ISSUED A DECREE AMENDING THE CONTRACT BETWEEN THE GOH AND THE COMPANY TELE-HAITI TO ELIMINATE THE EXCLUSIVE RIGHT GRANTED THE COMPANY TO ESTABLISH TELEVISION STATIONS IN HAITI.

3. US INVESTORS ARRIVED IN HAITI JAN. 5 FOR FURTHER DISCUSSIONS WITH GOH CHIEF NEGOTIATOR, SECRETARY OF JUSTICE JEANTY, HOPING TO PERSUADE GOH EITHER TO PAY INDEMNITY OR TO BUY OUT US SHAREHOLDERS. THROUGHOUT DISCUSSIONS HAITIAN NEGOTIATORS INSISTED THAT GOH HAD EVERY RIGHT TO DELETE THE PROVISION FOR EXCLUSIVE RIGHTS FROM THE CONTRACT WITH TELE-HAITI; THAT MONOPOLIES WERE A PRIVILEGE OF THE STATE ALONE ACCORDING TO THE CONSTITUTION; AND THAT SUCH PRIVILEGE THEREFORE COULD NOT BE CONSIDERED A COMMERCIAL RIGHT FOR WHICH A COMPANY COULD BE GRANTED COMPENSATION. GOH OFFICIALS ALSO, FOR FIRST TIME SINCE NEGOTIATIONS COMMENCED, STRESSED THE POOR QUALITY OF BOTH TRANSMISSIONS AND PROGRAMMING. WHEN US INVESTORS AGAIN INDICATED WILLINGNESS TO SELL THEIR SHARES IN TELE-HAITI FOR \$750,000 AS PROPOSED EARLIER, GOH REPS OFFERED REPORT PREPARED BY HAITIAN AND CANADIAN TECHNICIANS TO EFFECT THAT PHYSICAL ASSETS OF COMPANY AMOUNTED BETWEEN \$400-500,000 AT MOST. US SHAREHOLDERS INDICATED THEIR DISAGREEMENT WITH REPORT AND PROPOSED NEW STUDY BY "INDEPENDENT" TECHNICIANS TO ESTABLISH VALUE OF BUSINESS AS GOING CONCERN WITH BOTH SIDES AGREEING IN ADVANCE TO ACCEPT SALE OF TELE-HAITI AT ASSESSED VALUE.

4. ON FINAL DAY OF NEGOTIATIONS GOH TURNED DOWN PROPOSAL FOR NEW ASSESSMENT AND AGAIN REFUSED TO PAY INDEMNITY FOR LOSS OF MONOPOLY RIGHTS. HAITIAN OFFICIALS ASSURED US INVESTORS THAT MONOPOLY WOULD NOT BE GRANTED TO ANOTHER PARTY, AND SUGGESTED THAT COMPANY CONTINUE OPERATIONS. US INVESTORS PROPOSED THAT DISPUTE BE SUBMITTED TO ARBITRATION AS PROVIDED FOR IN ARTICLE 20 OF CONTRACT ("ALL DISPUTES OR DIFFICULTIES BETWEEN THE CONCESSIONNAIRE AND THE STATE WITH RESPECT TO INTERPRETATION OR EXECUTION OF ONE OR MORE CLAUSES OR DISPOSITIONS OF THE PRESENT CONTRACT WILL BE SETTLED BY ARBITRATION.") JEANTY STATED THAT ARBITRATION CLAUSE DID NOT APPLY IN PRESENT CASE. AT THIS POINT US INVESTORS ASKED IF THEY HAD ANY OTHER RECOURSE IN HAITI. JEANTY TOLD THEM NO. PARTICIPANTS THEN NOTED THAT THEY, AS PRIVATE CITIZENS, HAD NO RECOURSE

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PAGE 03 PORT A 00072 131939Z

AGAINST DECISIONS OF A SOVEREIGN STATE AND SAID THEY WOULD ASK FOR THE ASSISTANCE OF THE US GOVERNMENT.

5. EMBASSY ECONOFF SAT IN ON THREE MEETINGS AS OBSERVER, AS DID HAITIAN SECRETARY OF FOREIGN AFFAIRS BRUTUS, IN SESSIONS OF JAN. 8 AND 10. AFTER DEPARTURE OF US INVESTORS SHE DISCUSSED INFORMALLY WITH THE TWO MINISTERS THE PROBLEMS CREATED BY GOH DECISION. THEY POINTED OUT THAT COMPANY WOULD BE ALLOWED TO CONTINUE ITS OPERATION

AND THAT NO OTHER PRIVATE FOREIGN COMPANY WOULD COME IN, SINCE
IT WOULD BE THE HAITIAN GOVERNMENT WHICH WOULD OPERATE THE NEW
TV STATION. SINCE THE NEW STATION WOULD BROADCAST RATHER THAN
USE CABLES, MOST OF TELE-HAITI'S EQUIPMENT WOULD BE WORTHLESS TO
GOH. AT END OF DISCUSSIONS, FOREIGN SECRETARY BRUTUS
SUGGESTED THAT HE WOULD DISCUSS PROBLEM WITH AMBASSADOR ISHAM ON
HIS RETURN IN HOPE THAT A SATISFACTORY COMPROMISE COULD BE
DEVELOPED.
THOMSON

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